

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Establish
Policies and Cost recovery Mechanism for
Generation Procurement and Renewable
Resource Development.

Rulemaking 01-10-024
(Filed October 25, 2001)

**ASSIGNED COMMISSIONER'S RULING CLARIFYING SCOPE
OF COMMENTS ON OPERATING AGREEMENTS**

This ruling is in response to the filings made by Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (SCE) pursuant to Decision (D). 02-09-053, Ordering Paragraph 4.

The Commission, in D.02-09-053, allocated the Department of Water Resources (DWR) contracts to the resource portfolios of these three electric utilities and ordered PG&E, SDG&E, and SCE to assume as of January 1, 2003, all of the operational dispatch and administrative functions for the power purchase contracts that DWR had entered into. The decision also directed the utilities and DWR to jointly file proposed Operating Agreements and, if there remained specific issues where agreement could not be reached, highlight the differences in a companion comparison exhibit.

The decision is consistent with Assembly Bill 1 of the First Extraordinary Session (AB X1, Stats. 2001, Ch. 4), which authorized the DWR to purchase the utilities' needs on their behalf (with the utilities acting, in effect, as DWR's billing agent) and Section 80260 of the Water Code (which was enacted as part of

AB X1), under which DWR's authority to make such purchases expires on December 31, 2002.

On October 8, 2002, DWR transmitted to the service list a memorandum from Peter Garris of DWR in response to D.02-09-053 along with a Proposed Initial Draft of the Operating Agreement. Each of the utilities filed comments or statements on the Initial Draft Operating Agreement. I note, however, that despite the clear direction provided in D.02-09-053, that each of the utilities' comments continues to argue one of the following: (1) it is not necessary to adopt an Operating Agreement before the end of the year;¹ (2) DWR should continue to administer the power purchase contracts for a period of time after January 1, 2003;² or (3) additional time is required to reach agreement on an Operating Agreement.³

In view of the fact that each of these issues was among the issues addressed in the proceeding and resolved by D.02-09-053, the Commission will not waste its resources or time by relitigating these issues now.

¹ SDG&E reiterates that a final agreement is not in fact necessary by the end of the year. (SDG&E comments, October 8, 2002, p. 2.)

² "A one year transition period for utilities to ramp up the learning curve and operate and administer the contracts in parallel with DWR is necessary." (PG&E Comments, October 8, 2002, p. 7.)

³ SCE states that it requires an "additional 30 days...in order for DWR and utilities to seek to reach agreement on issues." (October 8, 2002 Compliance Filing of SCE, p. 12.)

Therefore, **IT IS RULED** that: in the comments and replies to be filed on October 18, and October 23, 2002, parties should focus on the specific language they would like to see added to or deleted from the Initial Draft Operating Agreements and attachments and refrain from rearguing issues that have already been decided by the Commission.

Dated October 17, 2002, at San Francisco, California.

/s/ LORETTA M. LYNCH

Loretta M. Lynch
Commissioner

CERTIFICATE OF SERVICE

I certify that I have by mail this day, and by electronic mail, to the parties to which an electronic mail address has been provided, served a true copy of the original attached Assigned Commissioner's Ruling Clarifying Scope of Comments on Operating Agreements on all parties of record in this proceeding or their attorneys of record.

Dated October 17, 2002, at San Francisco, California.

/s/ KE HUANG

Ke Huang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.